

REMARKS

The Office Action dated June 21, 2007, and the patents and publications cited therein have been carefully reviewed, and in view of the above changes and following remarks reconsideration and allowance of all the claims pending in the application are respectfully requested.

Claims 1-7, 9-18 and 20-22 stand rejected. By this Response, claims 1-7, 9-18 and 20-22 remain pending.

The Rejection Under 35 U.S.C. § 103(b) Over Watt In View Of Sheets

Claims 1-7 and 12-18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt, U.S. Patent Application Publication No. 2003/0126202 A1, further in view of Sheets et al. (Sheets), U.S. Patent No. 6,819,905.

Applicant respectfully traverses this rejection. Applicant respectfully submits that the subject matter according to any of claims 1-7 and 12-18 is patentable over Watts in view of Sheets.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (See, also, MPEP §§ 706.02(j) and 2143).

Regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that contrary to the Examiner's statement, there simply is no suggestion in either Watt or Sheets

“to apply Sheets disclosure of col. 15, lines 8-14, one of the significant advantages of the present invention is the process of reconfiguring servers from one administrative group to a second administrative group will wipe clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group to the system of Watts in order to provide the advantage of being able to keep the data separate from each user.” (See Office Action dated June 21, 2007, page 4, line 17, through page 5, line 1.)

The Examiner still admits that “Watt fails to teach the master storage image is pre-configured with data and state information that is associated with a system user.” (See Office Action dated June 21, 2007, page 3, lines 13-14.) Moreover, the Examiner still does not indicate that Watt suggests that the master storage image can be pre-configured with data and state information that is associated with a system user. Consequently, if a proper suggestion or motivation exists to combine Watt and Sheets, such a suggestion or motivation must be provided by Sheets or be in the knowledge generally available to one of ordinary skill in the art.

Turning to Sheets, Applicant respectfully submits that the current of-record syllogism used by the Examiner to form the combination of Watt and Sheets is without basis. First, the Examiner asserts that “[b]oth Watts and Sheets are within the same field of endeavor as the [present] application, namely dynamic allocation of servers.” (See Office Action dated June 21, 2007, page 4, lines 13-14.) The Examiner then states the major premise to be that “Watts suggests configuring images associated with a user,” and the minor premise to be that “Sheets suggests pre-configuring at least one identified server image with data and state information associated with a user.” (See Office Action dated June 21, 2007, page 15-17.)

Based on these two premises, the Examiner then concludes that it would have been obvious “to apply Sheets disclosure of col. 15, lines 8-14, one of the significant advantages of

the present invention is the process of reconfiguring servers from one administrative group to a second administrative group will wipe clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group to the system of Watts in order to provide the advantage of being able to keep the data separate from each user.” (See Office Action dated June 21, 2007, page 4, line 17, through page 5, line 1.)

Accordingly, the Examiner’s conclusion does not follow from the two premises the Examiner uses to arrive at the stated conclusion. It would seem that a proper conclusion based on the premises stated on the record would relate to something like pre-configuring a server image with data and state information associated with a user. Instead, the Examiner’s conclusion relates to wiping clean all of the state associated with a particular customer account and includes nothing regarding pre-configuring a server image with data and state information associated with a user. Thus, the Examiner’s conclusion is without basis because it does not relate to the Examiner’s two premises stated on the record.

It is respectfully noted that the Examiner does not state that Sheets provides a proper suggestion or motivation to modify Watt or to combine Watt and Sheets. Consequently, the suggestion or motivation used by the Examiner must necessarily be the knowledge generally available to one of ordinary skill in the art. Regardless, Applicant respectfully submits that the Examiner’s conclusion does not follow from the states premises.

Further, the Examiner appears to subsequently rationalize the faulty conclusion for combining Watt and Sheets by stating:

“[s]ecurity is thus enhanced and the unique data can be kept separate. As disclosed in Sheets, col. 15 lines 15-17, this provides a natural and very efficient security mechanism for precluding intentional or unintentional access to data between different customer accounts.” (See Office Action dated June 21, 2007, page 5, lines 2-4.)

It is noted that the rationalization also does not relate to either of the premises stated on the record that have been used for the conclusion.

Considering further the Examiner's statements stated on the record relating to enhancing security and being a natural and very efficient security mechanism, Applicant respectfully submits that Watt discloses security considerations that would cause one of ordinary skill in the art to not consider the disclosure of Sheets for producing any improvement in the Watt invention relating to security. In particular, Watt discloses in paragraph [0020] that the Watt invention provides improved infrastructure security and that "[m]any network security issues are eliminated by automatically configuring the network infrastructure when a server is provisioned *to restrict access to just those resources within the data center that the server needs to perform its function.*" (Emphasis added.) In paragraph [0051], Watt discloses that infrastructure controller 202 is responsible for configuring the network infrastructure 214 and 216 surrounding a server *to provide secure, limited access to those resources required by the server and its applications,*" and "configuring all switch ports connected to the server to ensure that the server and its applications have access to the network resources that they need, and *to prevent them from accessing any restricted resources that they are not authorized to access.*" (Emphasis added.)

In view of the Watt disclosure relating to securing, Applicant respectfully submits that one of ordinary skill in the art would have no reason to improve the security of Watt by combining carefully selected portions of Sheets except for Applicant's disclosure. Applicant respectfully submits that the Examiner is apparently ignoring the entire disclosure by Watt, and the Examiner's conclusion and subsequent statements regarding the present rejection simply provide no advantages to the Watt invention in regard to security and preventing access to any restricted resources that a user is not authorized to access.

The Examiner cites *In re Fine*, 837 f.2d 1071, 5 USPQ2d 1596 (Fed. Cir 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir 1992) for the proposition of law that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggesting, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Interestingly, Applicant respectfully note that in both *In re Fine, supra*,

and *In re Jones, supra*, the Court of Appeals for the Federal Circuit (CAFC) reversed the decision of the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office affirming the Examiner's final rejection. In particular, in *In re Fine, supra*, the CAFC indicated that there was nothing in the cited references, either alone or in combination, suggesting or teaching Fine's invention and that there was no offered support for the conclusion that "substitution of one type of detector for another in the system of Eads would have been within the skill of the art." Similarly, in *In re Jones, supra*, the CAFC indicated that there was no evidence in the record that one of ordinary skill in the herbicidal art would have been motivated to make the modifications of the prior art salts necessary to arrive at Jones' claimed invention.

Applicant respectfully submit that in this particular instance the Examiner has similarly failed to specifically identify a teaching, suggestion or motivation in either Watt or Sheets, or in the knowledge generally available to one of ordinary skill in the art to modify Watt or to combine the teachings of Watt and Sheets to arrive at the claimed subject matter.

Thus, Applicant respectfully submits that it is only by impermissible hindsight that the Examiner is able to reject claims 1-7 and 12-18 based on the proffered combination. Neither of the applied patents nor the knowledge generally available to one of ordinary skill in the art provides a proper suggestion to modify Watt or to combine the teachings of Watt and Sheets. It is only by the Applicant's disclosure that the Examiner can attempt to select particular features of Watt and Sheets to make the rejection.

Applicant respectfully notes that arguments previously submitted distinguishing the claimed subject matter over cited portions of Sheets complies with 37 C.F.R. § 1.111(b) because the portion of Sheets on which the Examiner relied to conclude that Sheets discloses that the master storage image is pre-configured with data and state information that is associated with a user, in actuality, relates to reconfiguring servers from one administrative group to a second administrative group by wiping clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group. Thus, the portion of Sheets relied on by

the Examiner plainly was not the claimed subject matter and is distinguishable from the claimed subject matter.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 1-7 and 12-18.

The Rejection Under 35 U.S.C. § 103(a) Over Watt In View of Haun

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of Haun et al. (Haun), U.S. Patent No. 6,751,058.

Applicant respectfully traverses this rejection. Applicant respectfully submits that the subject matter according to either of claims 9 and 20 is patentable over Watt in view of Haun.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (See, also, MPEP §§ 706.02(j) and 2143).

Regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that contrary to the Examiner's statement, there simply is no suggestion in either Watt or Haun "to apply Haun's disclosure of col. 2 lines 56-59, col. 1 lines 54-65, and col. 2 lines 50-55 to the system of Watt for the purpose of maintaining individual storage areas." (See Office Action dated June 21, 2007, page 14, lines 14-16.)

The Examiner admits that "Watt does not explicitly disclose, 'allocating a separate writable data volume of the writable data portion of the selected master storage image to each

server allocated to the system.” (See Office Action dated June 21, 2007, page 13, lines 1-18.) Moreover, the Examiner does not indicate that Watt suggests allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system. Consequently, if a proper suggestion or motivation exists to combine Watt and Haun, such a suggestion must be provided by Haun or be in the knowledge generally available to one of ordinary skill in the art.

Turning to Haun, Applicant respectfully submits that the syllogism used by the Examiner to conclude that Haun “suggests ‘allocating a separate writable volume of the writable data portion’ (e.g. modifications are separate from one or more system volumes) ‘of the selected master storage image to each server allocated to the system user” is without basis. In particular, the Examiner’s major premise, based on column 1, lines 54-56 (see Office Action dated June 21, 2007, page 14, lines 3-5.), is that “[t]he NC client causes information identifying the modification to be recorded on the NC server separate from one or more system volumes in a storage area associated with the NC client.” Applicant respectfully submits that nothing in this disclosure by Haun indicates that the storage area is a separate storage area that is allocated only to the particular NC client. That is, nothing in this disclosure by Haun indicates that the storage area is not allocated to more than one NC server. Haun discloses that the storage area is merely associated with the NC server.

For the Examiner’s minor premise, the Examiner relies on the disclosure by Haun at column 2, lines 56-59 (see Office Action dated June 21, 2007, page 14, lines 5-8), which states “[w]hen an NC client boots from the network and accesses a stored copy of the operating system from the NC server, the user’s preferences are dynamically merged with the system environment provided by the NC client.” Applicant respectfully submits that nothing in this disclosure by Haun indicates that the user’s preferences are not allocated to more than one NC server.

Accordingly, it plainly does not follow that based on these two of-record premises that Haun “suggests ‘allocating a separate writable volume of the writable data portion’ (e.g. modifications are separate from one or more system volumes) ‘of the selected master storage image to each server allocated to the system user”” because the writable volume referred to in

the portions of Haun cited by the Examiner might actually be a single writable volume that is associated with more than one NC server.

Turning to the Examiner's conclusion that that forms the rejection (see Office Action dated June 21, 2007, page 14, lines 13-16), the Examiner's conclusion simply does not follow from the premises that (1) Watt and Haun are in the same field of endeavor and (2) both Watt and Haun are in the same field of endeavor as Applicant's application. A proper conclusion based on these two premises would seem to relate to a field of endeavor.

Even if the Examiner is using the conclusion stated on the record in the previous paragraph of the Office Action as a premise, the conclusion "to apply Haun's disclosure of col. 2 lines 56-59, col. 1 lines 54-65, and col. 2 lines 50-55 to the system of Watt for the purpose of maintaining individual storage areas" does not follow because the conclusion in the previous paragraph of the Office Action is without basis.

It is respectfully noted that the Examiner does not state that Haun provides a proper suggestion or motivation to modify Watt or to combine Watt and Haun. Consequently, the suggestion or motivation used by the Examiner must necessarily be the knowledge generally available to one of ordinary skill in the art. Regardless, Applicant respectfully submits that the Examiner's conclusion does not follow from the states premises.

Thus, Applicant respectfully submits that it is only by impermissible hindsight that the Examiner is able to reject claims 9 and 20 based on the proffered combination. Neither of the applied patents nor the knowledge generally available to one of ordinary skill in the art provides a proper suggestion to modify Watt or to combine the teachings of Watt and Haun. It is only by the Applicant's disclosure that the Examiner can attempt to select particular features of Watt and Haun to make the rejection.

Applicant also respectfully notes that arguments previously submitted distinguishing the claimed subject matter over cited portions of Sheets complies with 37 C.F.R. § 1.111(b) because the portion of Haun on which the Examiner relies to conclude that Haun discloses "allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user," in actuality, provides no proper basis for the

conclusion. Thus, the portion of Haun relied on by the Examiner plainly was not the claimed subject matter.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 9 and 20.

**The Rejection Under 35 U.S.C. § 103(a) Over Watt
In View of Haun And Further In View Of Sheets**

Claims 10, 11, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of Haun, and further in view of Sheets.

Applicant still respectfully traverses this rejection. Applicant respectfully submits that the subject matter according to any of claims 10, 11, 21 and 22 is patentable over Watt in view of Haun, and further in view of Sheets. In particular, Applicant respectfully submits that the respective syllogisms that the Examiner uses as a basis for combining Watt, Haun and Sheets for rejecting claims 10, 11, 21 and 22 do not cure the deficiencies in the syllogism used by the Examiner for rejecting claims 9 and 20, the respective base claims of claims 10 and 11, and claims 21 and 22.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 10, 11, 21 and 22.

Applicant notes that additional patentable distinctions between Watt, Sheets and Haun and the rejected claims exist; however, the foregoing is believed sufficient to address the Examiner's rejections. Additionally, failure of Applicant to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Applicant does not agree.

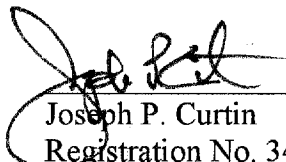
CONCLUSION

In view of the above amendments and arguments, it is urged that the present application is now in condition for allowance. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

It is requested that this application be passed to issue with claims 1-7, 9-18 and 20-22.

Respectfully submitted,

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